

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL****FOR: HEALTH CARE FINANCING ADMINISTRATION**

1. TRANSMITTAL NUMBER:

0 2 — 0 0 6

2. STATE:

MONTANA

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL
SECURITY ACT (MEDICAID)

4. PROPOSED EFFECTIVE DATE

July 1, 2002

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN☐ AMENDMENT TO BE CONSIDERED AS NEW PLANTechnical Corrections
☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

42 CFR 447- 250-272

7. FEDERAL BUDGET IMPACT:

a. FFY 2002 \$ 7,517,066b. FFY 2003 \$ 6,344,858

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

4.19 D Pages 1-56

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):

4.19 D Pages 1-63

10. SUBJECT OF AMENDMENT:

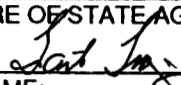
NURSING FACILITY REIMBURSEMENT

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL☒ OTHER, AS SPECIFIED:

Single State Agency Director

12. SIGNATURE OF STATE AGENCY OFFICIAL:



13. TYPED NAME:

Gail Gray

14. TITLE:

Director

15. DATE SUBMITTED:

September 26, 2002

16. RETURN TO:

Department of Public Health and Human Services
Gail Gray Director
Attention Kelly Williams
P O Box 4210
Helena MT 59604**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

10/10/02

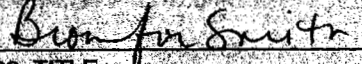
18. DATE APPROVED:

2/26/03**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL:

7/1/02

20. SIGNATURE OF REGIONAL OFFICIAL:



21. TYPED NAME:

CHARLENE BROWN

22. TITLE:

Deputy Director, CMSO

23. REMARKS:

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INDEX TO NEW NURSING FACILITY MEDICAID RULE SECTIONS

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37.40.301 SCOPE, APPLICABILITY AND PURPOSE (1) This subchapter specifies requirements applicable to provision of and reimbursement for medicaid nursing facility services, including intermediate care facility services for the mentally retarded. These rules are in addition to requirements generally applicable to medicaid providers as otherwise provided in state and federal statute, rules, regulations and policies.

(2) These rules are subject to the provisions of any conflicting federal statute, regulation or policy, whether now in existence or hereafter enacted or adopted.

(3) Reimbursement and other substantive nursing facility requirements are subject to the laws, regulations, rules and policies then in effect. Procedural and other non-substantive provisions of these rules are effective upon adoption. (History: Sec. 53-2-201 and 53-6-113, MCA; IMP, Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113, MCA; NEW, 1991 MAR p. 2050, Eff. 11/1/91; AMD, 1998 MAR p. 1749, Eff. 6/26/98; TRANS & AMD, from SRS, 2000 MAR p. 1653, Eff. 6/30/00; AMD, 2002 MAR p. 1767, Eff. 6/28/02.)

37.40.302 DEFINITIONS Unless the context requires otherwise in this subchapter, the following definitions apply:

(1) "Administrator" means the person licensed by the state, including an owner, salaried employee, or other provider, with daily responsibility for operation of the facility. In the case of a facility with a central management group, the administrator, for the purpose of these rules, may be a person other than the titled administrator of the facility if such person has daily responsibility for operation of the nursing facility and is currently licensed by the state as a nursing home administrator.

(2) "Case mix index (CMI)" means an assigned weight or numeric score assigned to each RUG-III grouping which reflects the relative resources predicted to provide care to nursing facility residents.

(3) "Department" means the Montana department of public health and human services or its agents, including but not limited to parties under contract to perform audit services, claim processing and utilization review.

(4) "Department audit staff" and "audit staff" mean personnel directly employed by the department or any of the department's contracted audit personnel or organizations.

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Approved _____

Effective 7/1/02

Supersedes TN # 01-015

(5) "Estimated economic life" means the estimated remaining period during which property is expected to be economically usable by one or more users, with normal repairs and maintenance, for the purpose for which it was intended when built.

(6) "Fiscal year" and "fiscal reporting period" both mean the provider's internal revenue tax year.

(7) "Maintenance therapy and rehabilitation services" mean repetitive services required to maintain functions which do not involve complex and sophisticated therapy procedures or the judgment and skill of a qualified therapist and without the expectation of significant progress.

(8) "Medicaid recipient" means a person who is eligible and receiving assistance under Title XIX of the Social Security Act for nursing facility services.

(9) "Minimum data set (MDS)" means the assessment form approved by the health care financing administration (HCFA), and designated by the department to satisfy conditions of participation in the medicaid and medicare programs.

(10) "Minimum data set RUG-III quarterly assessment form" means the three page quarterly, optional version for RUG-III 1997 update.

(11) "Nonemergency routine transportation" means transportation for routine activities, such as outings scheduled by the facility, nonemergency visits to physicians, dentists, optometrists or other medical providers. This definition includes such transportation when it is provided within 20 miles of the facility.

(12) "Nursing facility services" means nursing facility services provided in accordance with 42 CFR, part 483, subpart B, or intermediate care facility services for the mentally retarded provided in accordance with 42 CFR, part 483, subpart I. The department hereby adopts and incorporates herein by reference 42 CFR, part 483, subparts B and I, which define the participation requirements for nursing facility and intermediate care facility for the mentally retarded (ICF/MR) providers, copies of which may be obtained from the Department of Public Health and Human Services, Senior and Long Term Care Division, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210. The term "nursing facility services" includes the term "long term care facility services". Nursing facility services include, but are not limited to, a medically necessary room, dietary services

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including dietary supplements used for tube feeding or oral feeding such as high nitrogen diet, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Payment for the services listed in this subsection is included in the per diem rate determined by the department under ARM 37.40.307 or 37.40.336 and no additional reimbursement is provided for such services. Nursing facility services include but are not limited to the following or any similar items:

(a) all general nursing services, including but not limited to administration of oxygen and medications, handfeeding, incontinence care, tray service, nursing rehabilitation services, enemas, and routine pressure sore/decubitis treatment;

(b) services necessary to provide for residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life;

(c) services required to attain or maintain the highest practicable physical, mental, and psychosocial well being of each medicaid recipient who is a resident in the facility;

(d) items furnished routinely to all residents without charge, such as resident gowns, water pitchers, basins and bed pans;

(e) items routinely provided to residents including but not limited to:

(i) anti-bacterial/bacteriostatic solutions, including betadine, hydrogen peroxide, 70% alcohol, merthiolate, zepherin solution;

(ii) cotton;

(iii) denture cups;

(iv) deodorizers (room-type);

(v) distilled water;

(vi) enema equipment and/or solutions;

(vii) facial tissues and paper toweling;

(viii) finger cots;

(ix) first aid supplies;

(x) foot soaks;

(xi) gloves (sterile and unsterile);

(xii) hot water bottles;

(xiii) hypodermic needles (disposable and non-disposable);

(xiv) ice bags;

(xv) incontinence pads;

(xvi) linens for bed and bathing;

- (xvii) lotions (for general skin care);
- (xviii) medication - dispensing cups and envelopes;
- (xix) ointments for general protective skin care;
- (xx) ointments (anti-bacterial);
- (xxi) personal hygiene items and services, including but not limited to:
 - (A) bathing items and services, including but not limited to towels, washcloths and soap;
 - (B) hair care and hygiene items, including but not limited to shampoo, brush and comb;
 - (C) incontinence care and supplies appropriate for the resident's individual medical needs;
 - (D) miscellaneous items and services, including but not limited to cotton balls and swabs, deodorant, hospital gowns, sanitary napkins and related supplies, and tissues;
 - (E) nail care and hygiene items;
 - (F) shaving items, including but not limited to razors and shaving creme;
 - (G) skin care and hygiene items, including but not limited to bath soap, moisturizing lotion, and disinfecting soaps or specialized cleansing agents when indicated to treat special skin problems or to fight infection; and
 - (H) tooth and denture care items and services, including but not limited to toothpaste, toothbrush, floss, denture cleaner and adhesive;
- (xxii) safety pins;
- (xxiii) sterile water and normal saline for irrigating;
- (xxiv) sheepskins and other fleece-type pads;
- (xxv) soaps (hand or bacteriostatic);
- (xxvi) supplies necessary to maintain infection control, including those required for isolation-type services;
- (xxvii) surgical dressings;
- (xxviii) surgical tape;
- (xxix) over-the-counter drugs (or their equivalents), including but not limited to:
 - (A) acetaminophen (regular and extra-strength);
 - (B) aspirin (regular and extra-strength);
 - (C) cough syrups;
 - (D) specific therapeutic classes D4B (antacids), D6S (laxatives and cathartics) and Q3S (laxatives, local/rectal) including but not limited to:

- (I) milk of magnesia;
- (II) mineral oil;
- (III) suppositories for evacuation (dulcolax and glycerine);
- (IV) maalox; and
- (V) mylanta;
- (E) nasal decongestants and antihistamines;
- (xxx) straw/tubes for drinking;
- (xxxi) suture removal kits;
- (xxxii) swabs (including alcohol swab);
- (xxxiii) syringes (disposable or non-disposable hypodermic; insulin; irrigating);
- (xxxiv) thermometers, clinical;
- (xxxv) tongue blades;
- (xxxvi) water pitchers;
- (xxxvii) waste bags;
- (xxxviii) wound-cleansing beads or paste;
- (f) items used by individual residents which are reusables and expected to be available, including but not limited to:
 - (i) bathtub accessories (seat, stool, rail);
 - (ii) beds, mattresses, and bedside furniture;
 - (iii) bedboards, foot boards, cradles;
 - (iv) bedside equipment, including bedpans, urinals, emesis basins, water pitchers, serving trays;
 - (v) bedside safety rails;
 - (vi) blood-glucose testing equipment;
 - (vii) blood pressure equipment, including stethoscope;
 - (viii) canes, crutches;
 - (ix) cervical collars;
 - (x) commode chairs;
 - (xi) enteral feeding pumps;
 - (xii) geriatric chairs;
 - (xiii) heat lamps, including infrared lamps;
 - (xiv) humidifiers;
 - (xv) isolation cart;
 - (xvi) IV poles;
 - (xvii) mattress (foam-type and water);
 - (xviii) patient lift apparatus;
 - (xix) physical examination equipment;
 - (xx) postural drainage board;
 - (xxi) room (private or double occupancy as provided in ARM

37.40.331);

- (xxii) raised toilet seat;
- (xxiii) sitz baths;
- (xxiv) suction machines;
- (xxv) tourniquets;
- (xxvi) traction equipment;
- (xxvii) trapeze bars;
- (xxviii) vaporizers, steam-type;
- (xxix) walkers (regular and wheeled);
- (xxx) wheelchairs (standard);
- (xxxi) whirlpool bath;

(g) laundry services whether provided by the facility or by a hired firm, except for residents' personal clothing which is dry cleaned outside of the facility; and

(h) nonemergency routine transportation as defined in (14).

(13) "Patient contribution" means the total of all of a resident's income from any source available to pay the cost of care, less the resident's personal needs allowance. The patient contribution includes a resident's incurment determined in accordance with applicable eligibility rules.

(14) "Patient day" means a whole 24-hour period that a person is present and receiving nursing facility services, regardless of the payment source. Even though a person may not be present for a whole 24-hour period on the day of admission or day of death, such day will be considered a patient day. When department rules provide for the reservation of a bed for a resident who takes a temporary leave from a provider to be hospitalized or make a home visit, such whole 24-hour periods of absence will be considered patient days.

(15) "Provider" means any person, agency, corporation, partnership or other entity that, under a written agreement with the department, furnishes nursing facility services to medicaid recipients.

(16) "Rate year" means a 12-month period beginning July 1. For example, rate year 2003 means a period corresponding to the state fiscal year July 1, 2002 through June 30, 2003.

(17) "Resident" means a person admitted to a nursing facility who has been present in the facility for at least one 24-hour period.

(18) "RUG-III" means resource utilization group, version III.

(19) "RUG-III grouper version" means the resource utilization group version III algorithm that classifies residents based upon diagnosis, services provided and functional status using MDS assessment information for each resident. (History: Sec. 53-2-201 and 53-6-113, MCA; IMP, Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113, MCA; NEW, 1991 MAR p. 2050, Eff. 11/1/91; AMD, 1992 MAR p. 1617, Eff. 7/31/92; AMD, 1993 MAR p. 1385, Eff. 7/1/93, (14)(e) Eff. 10/1/93; AMD, 1994 MAR p. 1881, Eff. 7/8/94; AMD, 1995 MAR p. 1227, Eff. 7/1/95; AMD, 1996 MAR p. 1698, Eff. 6/21/96; AMD, 1997 MAR p. 76, Eff. 1/17/97; AMD, 1998 MAR p. 1749, Eff. 6/26/98; AMD, 1999 MAR p. 1393, Eff. 6/18/99; TRANS, from SRS, 2000 MAR p. 489; AMD, 2000 MAR p. 492, Eff. 2/11/00; AMD, 2001 MAR p. 1108, Eff. 6/22/01; AMD, 2002 MAR p. 1767, Eff. 6/28/02.)

Rules 03 through 05 reserved

37.40.306 PROVIDER PARTICIPATION AND TERMINATION

REQUIREMENTS (1) Nursing facility service providers, as a condition of participation in the Montana medicaid program must meet the following requirements:

(a) comply with and agree to be bound by all laws, rules, regulations and policies generally applicable to medicaid providers, including but not limited to the provisions of ARM 37.85.401, 37.85.402, 37.85.406, 37.85.407, 37.85.410, 37.85.414, and 37.85.415;

(b) maintain a current license issued by the department of public health and human services under Montana law for the category and level of care being provided, or, if the facility is located outside the state of Montana, maintain a current license under the laws of the state in which the facility is located for the category and level of nursing facility care being provided;

(c) maintain a current certification for Montana medicaid issued by the department of public health and human services under applicable state and federal laws, rules, regulations and policies for the category and level of care being provided, or, if the facility is located outside the state of Montana, maintain current medicaid certification in the state in which the facility is located for the category and level of nursing facility care being provided;

(d) maintain a current agreement with the department to